

Environmental Protection Agency

§ 80.1235

be included in the importer's compliance determination beginning January 1, 2011, or beginning January 1, 2015 for small foreign refiners approved under § 80.1340.

(b) *Maximum average benzene standard.* (1) A refinery's or importer's maximum average gasoline benzene concentration in any averaging period shall not exceed 1.30 volume percent.

(2) Compliance with the standard specified in paragraph (b)(1) of this section is determined in accordance with § 80.1240(b).

(3) The averaging period for achieving compliance with the requirement of paragraph (b)(1) of this section is July 1, 2012 through December 31, 2013 and each calendar year thereafter, or July 1, 2016 through December 31, 2017, and each calendar year thereafter for small refiners approved under § 80.1340.

(c) *Deficit carry-forward.* (1) A refinery or importer creates a benzene deficit for a given averaging period when its compliance benzene value, per § 80.1240(a), is greater than the benzene standard specified in paragraph (a) of this section.

(2) A refinery or importer may carry the benzene deficit forward to the calendar year following the year the benzene deficit is created but only if no deficit had been previously carried forward to the year the deficit is created. If a refinery or importer carries forward a deficit, the following provisions apply in the second year:

(i) The refinery or importer must achieve compliance with the benzene standard specified in paragraph (a) of this section.

(ii) The refinery or importer must achieve further reductions in its gasoline benzene concentrations sufficient to offset the benzene deficit of the previous year.

(iii) Benzene credits may be used, per § 80.1295, to meet the requirements of paragraphs (c)(2)(i) and (ii) of this section.

(iv) A refinery that has banked credits per § 80.1295(a)(3) must use all of its banked credits to achieve compliance with the benzene standard specified in paragraph (a) of this section before creating a deficit.

(3) EPA may allow an extended period of deficit carry-forward if it grants

hardship relief under §§ 80.1335 or 80.1336 from the annual average standard specified in paragraph (a) of this section.

§ 80.1235 What gasoline is subject to the benzene requirements of this subpart?

(a) For the purposes of determining compliance with the requirements of § 80.1230, all of the following products that are produced or imported for use in the United States during a refinery's or importer's applicable compliance period are collectively "gasoline" and are to be included in a refinery's or importer's compliance determination under § 80.1240, except as provided in paragraph (b) of this section:

(1) Reformulated gasoline.

(2) Conventional gasoline.

(3) Reformulated gasoline blendstock for oxygenate blending ("RBOB").

(4) Conventional gasoline blendstock that becomes finished conventional gasoline upon the addition of oxygenate ("CBOB").

(5) Blendstock that has been combined with finished gasoline, other blendstock, transmix, or gasoline produced from transmix to produce gasoline.

(6) Blendstock that has been combined with previously certified gasoline ("PCG") to produce gasoline. Such blendstock must be sampled in accordance with the provisions at § 80.1347(a)(5).

(b) The following products are not to be included in a refinery's or importer's compliance determination under § 80.1240:

(1) Blendstock that has not been combined with other blendstock or finished gasoline to produce gasoline.

(2) Oxygenate added to finished gasoline, RBOB, or CBOB downstream of the refinery that produced the gasoline or import facility where the gasoline was imported.

(3) Butane added to finished gasoline, RBOB, CBOB downstream of the refinery that produced the gasoline or import facility where the gasoline was imported.

(4) Gasoline produced by separating gasoline from transmix.

(5) PCG.

(6) Gasoline produced or imported for use in Guam, American Samoa, and the

§ 80.1236

Commonwealth of the Northern Mariana Islands.

(7) Gasoline exported for use outside the United States.

(8) Gasoline produced by a small refiner approved under § 80.1340 prior to January 1, 2015, or prior to the small refiner's first compliance period pursuant to § 80.1342(a), whichever is earlier.

(9) Gasoline that is used to fuel aircraft, racing vehicles or racing boats that are used only in sanctioned racing events, provided that —

(i) Product transfer documents associated with such gasoline, and any pump stand from which such gasoline is dispensed, identify the gasoline either as gasoline that is restricted for use in aircraft, or as gasoline that is restricted for use in racing motor vehicles or racing boats that are used only in sanctioned events;

(ii) The gasoline is completely segregated from all other gasoline throughout production, distribution and sale to the ultimate consumer; and

(iii) The gasoline is not made available for use as motor vehicle gasoline, or dispensed for use in motor vehicles, except for motor vehicles used only in sanctioned racing events.

(10) California gasoline, as defined in § 80.1236.

§ 80.1236 What requirements apply to California gasoline?

(a) *Definition.* For purposes of this subpart, "California gasoline" means any gasoline designated by the refiner or importer as for use only in California and that is actually used in California.

(b) *California gasoline exemption.* California gasoline that complies with all the requirements of this section is exempt from the requirements in § 80.1230.

(c) *Requirements for California gasoline.* The following requirements apply to California gasoline:

(1) Each batch of California gasoline must be designated as such by its refiner or importer.

(2) Designated California gasoline must be kept segregated from gasoline that is not California gasoline at all points in the distribution system.

(3) Designated California gasoline must ultimately be used in the State of

40 CFR Ch. I (7–1–07 Edition)

California and not used elsewhere in the United States.

(4) In the case of California gasoline produced outside the State of California, the transferors and transferees must meet the product transfer document requirements under § 80.81(g).

(5) Gasoline that is ultimately used in any part of the United States outside of the State of California must comply with the requirements specified in § 80.1230, regardless of any designation as California gasoline.

§ 80.1238 How is a refinery's or importer's average benzene concentration determined?

(a) The average benzene concentration of gasoline produced at a refinery or imported by an importer for an applicable averaging period is calculated according to the following equation:

$$B_{\text{avg}} = \frac{\sum_{i=1}^n (V_i \times B_i)}{\sum_{i=1}^n V_i}$$

Where:

B_{avg} = Average benzene concentration for the applicable averaging period (volume percent benzene).

i = Individual batch of gasoline produced at the refinery or imported during the applicable averaging period.

n = Total number of batches of gasoline produced at the refinery or imported during the applicable annual averaging period.

V_i = Volume of gasoline in batch i (gallons).

B_i = Benzene concentration of batch i (volume percent benzene), per § 80.46(e).

(b) A refiner or importer may include the volume of oxygenate added downstream from the refinery or import facility in the calculation specified in paragraph (a) of this section, provided the following requirements are met:

(1) For oxygenate added to conventional gasoline, the refiner or importer must comply with the requirements of § 80.101(d)(4)(ii) and the calculation methodologies of § 80.101(g)(3).

(2) For oxygenate added to RBOB, the refiner or importer must comply with the requirements of § 80.69(a).

(c) Refiners and importers must exclude from the calculation specified in paragraph (a) of this section all of the following: